

LYNCHBURG CITY COUNCIL
Agenda Item Summary

MEETING DATE: April 11, 2006		AGENDA ITEM NO.: 4
CONSENT:	REGULAR: X	CLOSED SESSION: (Confidential)
ACTION: X	INFORMATION:	
ITEM TITLE:	Rezoning: R-1, Low Density Single-Family Residential, to B-3C, Community Business District (Conditional) for twenty-seven hundredths (0.27) of an acre of property on the southeast side of Leesville Road approximately 1900 feet from the intersection of Greenview Drive and Leesville Road, also known as Valuation Number 266-06-016	

RECOMMENDATION: Approval of the requested rezoning.

SUMMARY: Greenview Properties, LLC is petitioning to rezone approximately twenty-seven hundredths (0.27) of an acre from R-1, Low Density Single-Family Residential to B-3C, Community Business District (Conditional) to allow a commercial entrance to serve a proposed roadway in Campbell County. The Planning Commission recommended approval of the rezoning because:

- The petition agrees with the Comprehensive Plan which recommends a Low Density Residential use, which may include public uses in scale with single family residential homes. The plan also promotes regional cooperation in issues related to land use, growth and development.
- Petition agrees with the Zoning Ordinance in that commercial entrances are permitted in a B-3, Community Business District.
- The commercial entrance was proposed as part of the Cooperation Agreement between the City of Lynchburg & County of Campbell to adequately address traffic and service concerns from the previously approved Compson Rezoning, at 108 Melinda Drive and Wards Ferry Road.

PRIOR ACTION(S):

March 22, 2006: Planning Division recommended approval of the rezoning.
The Planning Commission waived (7-0) the twenty-one (21) day submittal requirement for proffers.
Planning Commission recommended approval (7-0) of the rezoning with the following voluntarily submitted proffers:

1. The site will be developed in substantial accordance with the site plan.
2. A traffic study will be performed before the road is completed and Greenview Properties, LLC agrees to construct any required improvements before the road is open to traffic.

FISCAL IMPACT: N/A

CONTACT(S):

Tom Martin/ 455-3909

ATTACHMENT(S):

- Ordinance
- PC Report
- PC Minutes
- Vicinity Zoning Pattern
- Vicinity Proposed Land Use
- Site Plan

- Project Narrative
- Cooperation Agreement
- Speaker Sign-Up sheet

REVIEWED BY: lkp

ORDINANCE

AN ORDINANCE CHANGING A CERTAIN AREA FROM R-1, LOW DENSITY SINGLE-FAMILY RESIDENTIAL DISTRICT TO B-3(C), COMMUNITY BUSINESS DISTRICT (CONDITIONAL).

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF LYNCHBURG that in order to promote the public necessity, convenience, general welfare, and good zoning practices that Chapter 35.1 of the Code of the City of Lynchburg, 1981, as amended, be and the same is hereby further amended by adding thereto Section 35.1-76.____, which section shall read as follows:

Section 35.1-76.____. Change of a certain area from R-1, Low Density Single-Family Residential District to B-3(C), Community Business District (Conditional).

The area embraced within the following boundaries . . .

Beginning at a point on a proposed new R/W line, approximately 10' offset and to the right of a point on the southern margin of Leesville Road located approximately 644 feet northeast along Leesville Road R/W from the property corner shared by Greenview Properties, LLC & Church of God, TRS (Tax Parcel 26606014); thence along a curve to the left having a radius of 5769.53', a length of 117.38', and a chord bearing of N 35-51-59 E, 117.37'; thence leaving proposed R/W line along a curve to the left having a radius of 36.50', a length of 29.02' and a chord of S 30-53-04 E, 28.26'; thence S 53-39-43 E, 134.15'; thence along the City Limits line S 35-45-22 W, 70.00'; thence N 53-39-43 W, 123.46'; thence along curve to left having a radius of 36.50', length 57.26' and chord bearing S 81-23-37 W, 51.57' to point of beginning and containing 0.27 acres.

. . . is hereby changed from R-1, Low Density Single-Family Residential District to B-3(C), Community Business District (Conditional), subject to the conditions setout hereinbelow which were voluntarily proffered in writing by the owner, namely:

English Construction Company, Inc.

1. The site will be developed in substantial accordance with the site plan.
2. A traffic study will be performed before the road is completed and Greenview Properties, LLC agrees to construct any required improvements before the road is open to traffic.

And the Director of Community Planning and Development shall forthwith cause the Official Land Use Map and the "Official Zoning Map of Lynchburg, Virginia," referred to in Section 35.1-4 of this chapter to be amended in accordance therewith.

Adopted:

Certified: _____
Clerk of Council

033L

The Department of Community Planning & Development
City Hall, Lynchburg, VA 24504 **434-455-3900**

To: Planning Commission
From: Planning Division
Date: March 22, 2006
Re: **REZONING: R-1, Low Density Single-Family Residential, to B-3C, Community Business District (Conditional) for twenty-seven hundredths (0.27) of an acre of property on the southeast side of Leesville Road approximately 1900 feet from the intersection of Greenview Drive and Leesville Road, also known as Valuation Number 266-06-016.**

I. PETITIONER

Greenview Properties, LLC, P.O. Box P7000, Lynchburg, VA 24505-7000

Representatives: Ray Booth, English Construction Company, Inc., P.O. Box P7000, Lynchburg, VA 24505-7000

II. LOCATION

The subject property is a tract of approximately twenty-seven hundredths (0.27) of an acre of property on the southeast side of Leesville Road approximately 1900 feet from the intersection of Greenview Drive and Leesville Road, also known as Valuation Number 266-06-016.

Property Owners:

English Construction Company, Inc., P.O. Box P7000, Lynchburg, VA 24505-7000

III. PURPOSE

The purpose of the petition is to rezone approximately twenty-seven hundredths (0.27) of an acre from R-1, Low Density Single-Family Residential to B-3C, Community Business District (Conditional) to allow a commercial entrance to serve a proposed roadway in Campbell County.

IV. SUMMARY

- Petition agrees with the Comprehensive Plan which recommends a Low Density Residential use, which may include public uses in scale with single family residential homes. The plan also promotes regional cooperation in issues related to land use, growth and development.
- Petition agrees with the Zoning Ordinance in that commercial entrances are permitted in a B-3, Community Business District.
- The commercial entrance is proposed as part of the Cooperation Agreement between the City of Lynchburg & County of Campbell to adequately address traffic and service concerns from the previously approved Compson Rezoning.

The Planning Division recommends approval of the rezoning petition.

V. FINDINGS OF FACT

1. **Comprehensive Plan.** The Lynchburg *Comprehensive Plan* recommends a Low Density Residential use for the subject property. Low Density Residential uses are dominated by single family detached housing at densities of up to four dwellings per acre. In addition to residential uses, they may include public and institutional uses in scale with single family residential homes. The plan also recommends promoting regional cooperating in issues related to land use, growth and development. Land use decisions and planning in the surrounding counties have an will continue to have an impact on how the City approaches land use, transportation, utility extension and environmental management. **(5.7, Regional Land Use Issues)**

The subject property is also located along Leesville Road, approximately 1900 feet from the intersection of Greenview Drive and Leesville Road. This area is listed as a “minor gateway” to the City. The City’s gateways serve as the community’s front door, establishing first impressions and reinforcing images and perceptions of Lynchburg’s quality of life. The Comprehensive Plan states that “if a property in a gateway area is proposed for rezoning, the City will seek proffers that ensure high aesthetic quality of development and that set aside land for gateway features.” (4.1-4.3)

2. **Zoning.** The subject property was annexed into the City in 1976. The existing R-1, Low Density Single-Family Residential zoning was established in 1978 with the adoption of the current Zoning Ordinance.
3. **Proffers.** The petitioner voluntarily submitted the following proffers with the rezoning application:
 1. The site will be developed in substantial accordance with the site plan.
 2. A traffic study will be performed before the road is completed and Greenview Properties, LLC agrees to construct any required improvements before the road is open to traffic.
4. **Board of Zoning Appeals (BZA).** The Zoning Official has determined that no variances will be needed for the development of the property as proposed.
5. **Previous Actions.** The following items in the immediate area have required City Council approval:
 - On November 9, 2004, City Council approved Joe Gantt’s conditional use permit petition and petition to rezone six and eighteen hundredths (6.18) acres at 716 Leesville Road from R-1, Low Density Single-Family Residential District to R-3C, Medium-Density Two-Family Residential District (Conditional), to allow construction of fifty-nine (59) townhouse units (for sale).
 - On October 10, 2001, City Council approved Tree of Life Ministries’ conditional use permit petition for a master development plan, including a sanctuary, multi-purpose building, parking and athletic fields, at 742 and 752 Leesville Road, in an R-1, Low Density Single-Family Residential District.
 - On August 10, 1999, City Council approved Gerald and Deborah Maxey’s petition to rezone eight tenths (0.8) of an acre at 794 Leesville Road, from B-3, Community Business District to B-1, Limited Business District to allow office use of an existing structure for a counseling service.
 - On January 12, 1999, City Council approved The Church of God’s conditional use permit petition to construct a forty-one (41) space parking lot, of which thirty (30) spaces will be located in the City of Lynchburg, at 777 Leesville Road in an R-1, Low Density Single-Family Residential District.
 - On August 13, 1996, City Council approved Tree of Life Ministries’ conditional use permit petition for expansion of existing church facilities at 742 Leesville Road, in an R-1, Low Density Single-Family Residential District.
 - On August 13, 1991, City Council approved Tree of Life Ministries’ conditional use permit petition for the construction of a sanctuary and parking lot at 742 Leesville Road, in an R-1, Low Density Single-Family Residential District.
 - On October 13, 1987, City Council approved Glenn and Jo Anne Carter’s petition to rezone three and a half (3.5) acres at 794 Leesville Road from R-1, Low Density Single-Family Residential District to B-3C, Community Business District (Conditional) to allow the expansion

of an existing nonconforming retail nursery and the use of an existing house for residential or nursery uses.

- On July 14, 1981, City Council approved the Coffee's petition to rezone twelve and a half (12.5) acres at 762 Leesville Road from an R-1, Low Density Single-Family Residential District to an R-4C, Medium-High Density Multi-family Residential District (Conditional) for the construction of a multi-family development.

6. **Site Description.** The subject property is bound to the northeast, northwest, west and southwest by single-family uses, and to the north, east, and south by vacant land (zoned R-1, Single-Family Residential District).
7. **Proposed Use of Property.** The purpose of the rezoning is to allow the construction of a commercial access drive to serve a proposed roadway in Campbell County. The commercial entrance is proposed as part of the Cooperation Agreement between the City of Lynchburg & County of Campbell to adequately address traffic and service concerns with the Wards Crossing West (Compson Development) shopping center. The cooperation agreement provides that Campbell County will obtain necessary right-of-way, design and construct an access road from the proposed development area to either Leesville Road or Airport Road. **(Section 3.1 of Agreement)**
8. **Traffic.** The City's Traffic Engineer requested a traffic study to determine if a traffic signal will be needed for the proposed entrance. The petitioner has expressed concerns that a traffic study, under current conditions may not show the full extent of traffic problems associated with the proposed development adjacent to the access road. The petitioner has agreed to perform the study before the road is completed and to construct any required improvements before the road is open to traffic. The proffer has been reviewed by and is acceptable to the City's Traffic Engineer. Of particular concern to the Planning Division is the aesthetic quality of the entrance. This area is listed as a "minor gateway" to the City. The City's gateways serve as the community's front door, establishing first impressions and reinforcing images and perceptions of Lynchburg's quality of life. The Comprehensive Plan states that "if a property in a gateway area is proposed for rezoning, the City will seek proffers that ensure high aesthetic quality of development and that set aside land for gateway features." **(4.1-4.3)** The site plan for rezoning addresses this concern by providing for significant landscaping at the drive's entrance, as well as street trees along the one hundred and seventy five (175) feet of roadway that lies within the City limits.
9. **Stormwater Management.** The total impervious surface of the portion of the entrance that lies in the City limits is approximately 13,000 square feet; a stormwater management plan will be required because new impervious area exceeds 1,000 square feet. Due to the topography of the site, all storm water runoff from the entrance will be discharged into Campbell County. However, because plans have not been completed for the roadway, storm water management plans have not yet been developed. It is assumed that storm water quality and quantity will ultimately be managed for this project (inclusive of the roadway, proposed shopping center, commercial and other development) on a regional basis; however, at a minimum, stormwater quality will be addressed using the proposed landscaping as a best management practice. The ultimate receiving channel for the runoff is the either Rock Castle Creek or a tributary of Rock Castle Creek. Both of these waters are considered adequate receiving channels.
10. **Emergency Services.** The City's Fire Marshal had no comments on the rezoning application for the proposed commercial entrance.
The City Police Department had no comments on the proposed commercial entrance.
11. **Impact.** The petition proposes to rezone approximately twenty-seven hundredths (0.27) of an acre from R-1, Low Density Single-Family Residential to B-3c, Community Business District

(conditional) to allow a commercial entrance to serve a proposed roadway in Campbell County. The commercial entrance is proposed as part of the Cooperation Agreement between the City of Lynchburg & County of Campbell to adequately address traffic and service concerns from the previously approved Compson Rezoning. The Future Land Use Map recommends a "Low Density Residential" use for the subject property, which may include public uses. The plan also recommends promoting regional cooperating in issues related to land use, growth and development; thus, the proposed rezoning is in compliance with the *Comprehensive Plan*. Allowing the commercial entrance will likely lead to future commercial rezoning petitions along Leesville Road and the City should study future impacts that will result from the entrance. The major impacts associated with the proposed development will be traffic, landscaping/aesthetics of the property within the minor gateway and stormwater. The City's Traffic Engineer requested a traffic study to determine if a traffic signal will be needed for the proposed entrance. The petitioner has expressed concerns that a traffic study, under current conditions, may not show the full extent of traffic problems associated with the proposed development adjacent to the access road. The petitioner has agreed to perform the study before the road is completed and to construct any required improvements before the road is open to traffic. The proffer has been reviewed by and is acceptable to the City's Traffic Engineer.

Landscaping and gateway concerns have been addressed by the petitioner within the site plan for rezoning. The plan provides significant landscaping at the drive's entrance, as well as street trees along the one hundred and seventy five (175) feet of roadway that lies within the City limits.

The total impervious surface of the portion of the entrance that lies in the City limits is approximately 13,000 square feet; a stormwater management plan will be required because new impervious area exceeds 1,000 square feet. Due to the topography of the site, all storm water runoff from the entrance will be discharged into Campbell County. However, because plans have not been completed for the roadway, storm water management plans have not yet been developed. It is assumed that storm water quality and quantity will ultimately be managed for this project (inclusive of the roadway, proposed shopping center, commercial and other development) on a regional basis; however, at a minimum, stormwater quality will be addressed using the proposed landscaping as a best management practice. The ultimate receiving channel for the runoff is the either Rock Castle Creek or a tributary of Rock Castle Creek. Both of these waters are considered adequate receiving channels.

12. **Technical Review Committee.** The Technical Review Committee (TRC) reviewed the preliminary site plan on February 28, 2006. Comments have or will be addressed by the petitioner prior to final site plan approval.

VI. PLANNING DIVISION RECOMMENDED MOTION(s)

That the Planning Commission waives the twenty-one (21) day submittal requirements for proffers.

Based on the preceding Findings of Fact, the Planning Commission recommends approval of the rezoning of twenty-seven hundredths (0.27) of an acre of property on the southeast side of Leesville Road approximately 1900 feet from the intersection of Greenview Drive and Leesville Road, also known as Valuation Number 266-06-016 R-1, Low Density Single-Family Residential, to B-3c, Community Business District (conditional) with the voluntarily submitted proffers.

This matter is respectfully offered for your consideration.

William Z. Martin

William T. Martin, AICP
City Planner

pc: Mr. L. Kimball Payne, III, City Manager
Mr. Walter C. Erwin, City Attorney
Capt. Michael L. Thomas, Fire Marshal
Mr. J. Lee Newland, Director of Engineering
Lt. Danny R. Marks, Lynchburg Police Department Field Operations Bureau
Capt. Todd Swisher, Lynchburg Police Department North Division
Capt. J.P. Stokes, Lynchburg Police Department East Division
Capt. Al Thomas, Lynchburg Police Department South Division
Mr. Gerry L. Harter, Traffic Engineer
Mr. Robert Drane, Building Commissioner
Mr. Keith Wright, Zoning Official
Mr. Robert S. Fowler, Zoning Official
Ms. Annette Chenault, Planner II
Ms. Nicole Gilkeson, Community Development Planner
Mr. Ray Booth, Representative

VII. ATTACHMENTS

- 1. Vicinity Zoning Pattern**
(see attached map)
- 2. Vicinity Proposed Land Use**
(see attached map)
- 3. Site Plan**
(see attached site plan)
- 4. Cooperation Agreement**
(see attached agreement)
- 5. Project Narrative**

Petition of Greenview Properties, LLC to rezone 0.322 acres at 759 Leesville Road from R-1, Low Density Single Family Residential District, to B-3c, Community Business District (conditional), to permit the construction of a commercial entrance road.

Mr. Martin explained that this rezoning would only concern the portion of the property where the road and landscaping were located. He continued that the road would allow the construction of a commercial entrance in Campbell County, which would serve the Wards Crossing West shopping center as well as other large developments in Campbell County. He added that this road was part of the City/County Cooperation Agreement approved in October 2005. The road was deemed appropriate, Mr. Martin said, because the City and County were looking for ways to discourage cut-through traffic in the surrounding neighborhoods adjacent to the Wards Crossing development. He noted that the City's Comp Plan did indicate a low-density residential use for the property. Being that it was included in the Cooperation Agreement, Mr. Martin told the Commission that the Planning Division strongly recommended a land use study along Leesville Road in the near future to determine if the land use patterns were still realistic for that area. He added that the proffers submitted by the petitioner did adequately address the concerns with the proposed access road. He said that prior to completion of the access road, there would be a traffic study performed and any improvements deemed necessary would be constructed by the developer. Mr. Martin told the Planning Commission that they would have to make a motion and vote on whether or not to waive the 21-day submittal requirement for proffers, and added that the Planning Division did recommend approval of this rezoning.

Mr. Ray Booth, English Construction, and Mr. Scott Beasley, Hurt and Proffitt, represented the petitioner. Mr. Booth explained to the Commission that the rezoning of this short section of street within the City of Lynchburg was being done according to the Cooperation Agreement, which stated that the developer construct the road from the edge of the property to Leesville Road within eighteen months after the agreement was signed by the City and Campbell County. He said after the second portion of the road was constructed, there would be a full-blown traffic study conducted for the interchange. He added that the Airport owned the property and they were working on a land exchange because the airport needed a runway extension and the developer needed access in order to connect the roads. Mr. Booth told the Commission that they were in the process of developing a Master Plan for all of the property, and added that both the Planning Commission and City Council would have an opportunity to review and comment on the plan.

Commissioner Barnes pointed out that the plan showed a four-lane road with a landscape median. He asked if the road would extend all of the way to the Compson property.

Mr. Booth said the four-lane section extended for a small portion of the road and would then narrow to twenty-four (24) feet. He said if this entrance ever needed a traffic signal then the lanes would already be in place. He added that the Traffic Engineer requested that a turn lane be built.

Commissioner Worthington asked why a traffic study conducted before the road was even opened would give any type of accurate results.

Mr. Booth said there were only three leases currently signed for the shopping center, and depending on how many of those leases were signed and what went on those pad sights would determine the traffic count beyond those three stores. However, he said, the real issue was what percentage of the traffic would actually use the proposed entrance. Mr. Booth said until they knew what other stores would be constructed in the shopping center accurate traffic projections could not be made. He said

they asked that the traffic study be delayed until the stores had been opened a while, but the Traffic Engineer wanted to make sure that the developer conducted the study in advance.

Commissioner Flint asked if the study indicated that there was a need for a traffic light, who would pay for that light.

Mr. Booth said they would have to wait and see who paid for the signal light. He said he thought the City wanted to get a commitment from the developer to install a traffic signal when it was determined to be needed. He said if it was determined that a signal was needed, he did not know if the developer would pay or if the County would give them incentives, but either way it would be installed.

Chair Hamilton asked Mr. Gerry Harter, City Traffic Engineer, the logic behind conducting the survey before the shopping center opened.

Mr. Harter said normally the traffic study was done before the developer was granted the rezoning. In this case, he continued, the developer had to build the road according to the City/County agreement. He said they proffered a traffic study and would make any necessary road improvements before the road was opened. He added that the road had to be opened, so in this case, they were allowing them to do the traffic study a little later in the process.

Mr. Martin said an important thing to note was that earlier in his comments he suggested that the City conduct a land use study along Leesville Road. He said once the road was constructed, the highest and best use of the property would no longer be single family residential. He said at some point the road would have to be rezoned, which would lead to more discussion on traffic improvements and those types of issues.

Mr. Booth said since the topography of the site was so steep, the area would probably be developed into some type of mixed use. He said once that decision was made, they could make better traffic projections for the area.

Commissioner Sale asked Mr. Booth what he meant when he said they would have input on the site plan.

Mr. Booth explained that ultimately the County had to approve and adopt the site plan; however, he added, the County indicated that the City could make comments on the plan.

Chair Hamilton asked Mr. Martin if the City staff would do the land use study that he mentioned earlier in this meeting.

Mr. Martin said he had spoken with the City Manager about the land use study for the area, and they would like to begin work on that project in mid-summer. He said they needed to look at Leesville Road in its entirety.

Commissioner Worthington said the bulk of the stormwater management would be driven by the majority of the project, which was located in the County. He asked what part of the City's requirement played into the grand scheme of the project.

Mr. Martin said the Environmental Planners in both the City and County were working together on this project. He said in this instance, the water quality and quantity were being handled by the landscaping.

Commissioner Flint pointed out that it was stated in the City/County agreement that the entire development would meet the City's water quality standards.

Chair Hamilton said they had done a great job using landscaping as a filter for stormwater.

Commissioner Sale asked if there were any residents in the area who were in opposition to this request.

Mr. Martin said he had received one phone call concerning this petition.

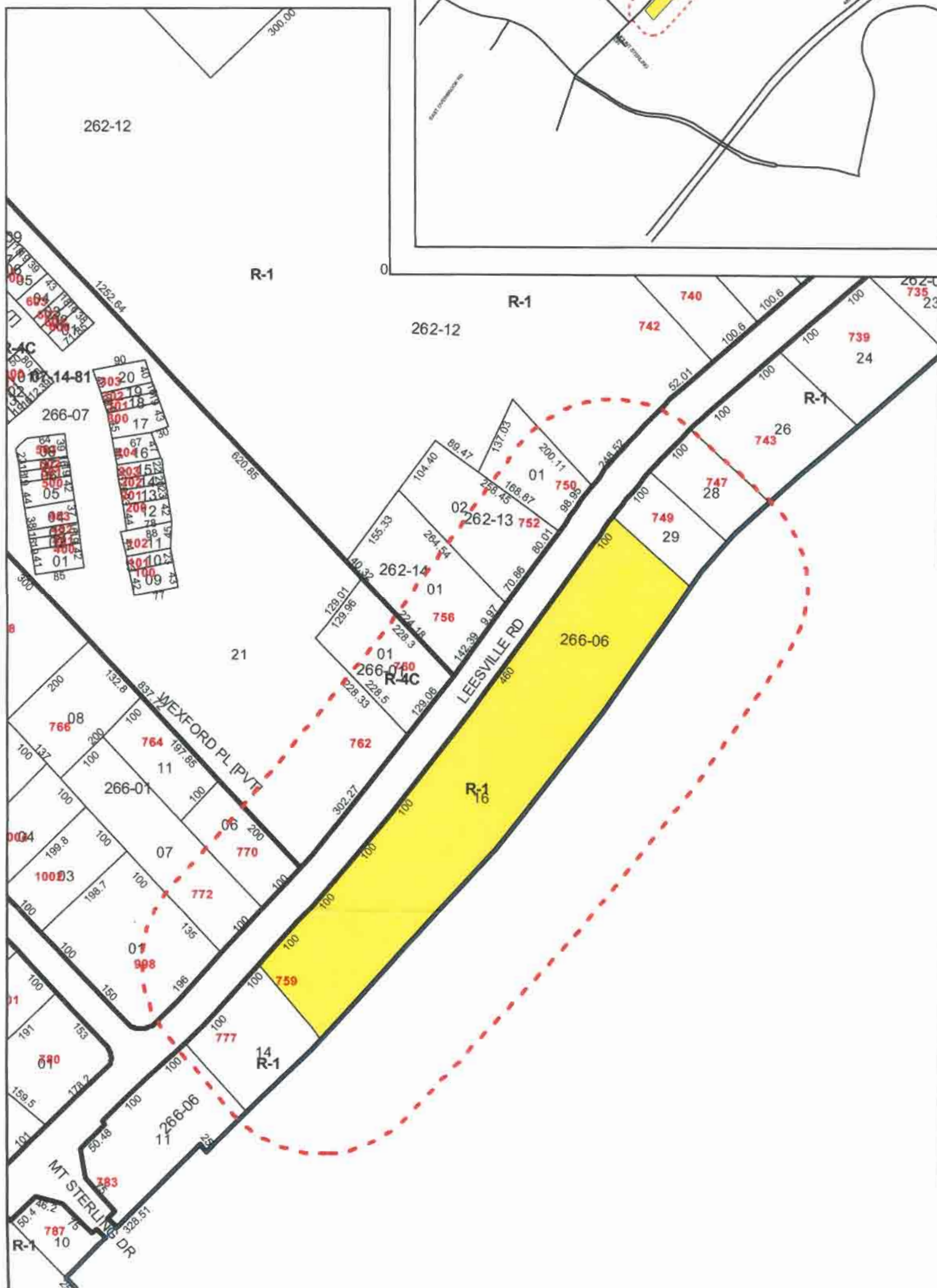
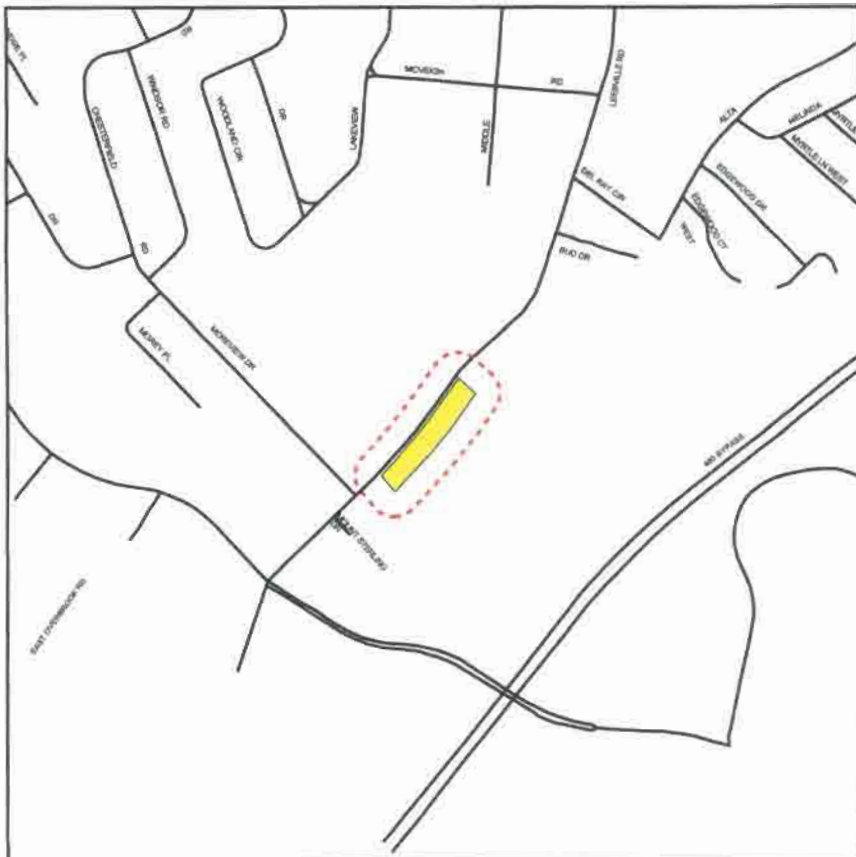
Mr. Booth said in addition to the notice that the City sent to the adjoining property owners, the developer also sent their own letter to those same people. He added that he had left voice mail messages and had spoken to some of those property owners directly but did not hear any concerns with the project.

After discussion, Commissioner Worthington made the following motion, which was seconded by Commissioner Flint and passed by the following vote:

“That the Planning Commission waive the 21-day submittal requirement of Section 35.1-43.1 of the Zoning Ordinance to accept proffers submitted by Greenvue Properties LLC to 0.322 acres at 759 Leesville Road from R-1, Low Density Single Family Residential District, to B-3c, Community Business District (conditional), to permit the construction of a commercial entrance road.”

AYES:	Bacon, Barnes, Flint, Hamilton, Oglesby, Sales, Worthington	7
NOES:		0
ABSTENTIONS:		0
ABSENT:		0

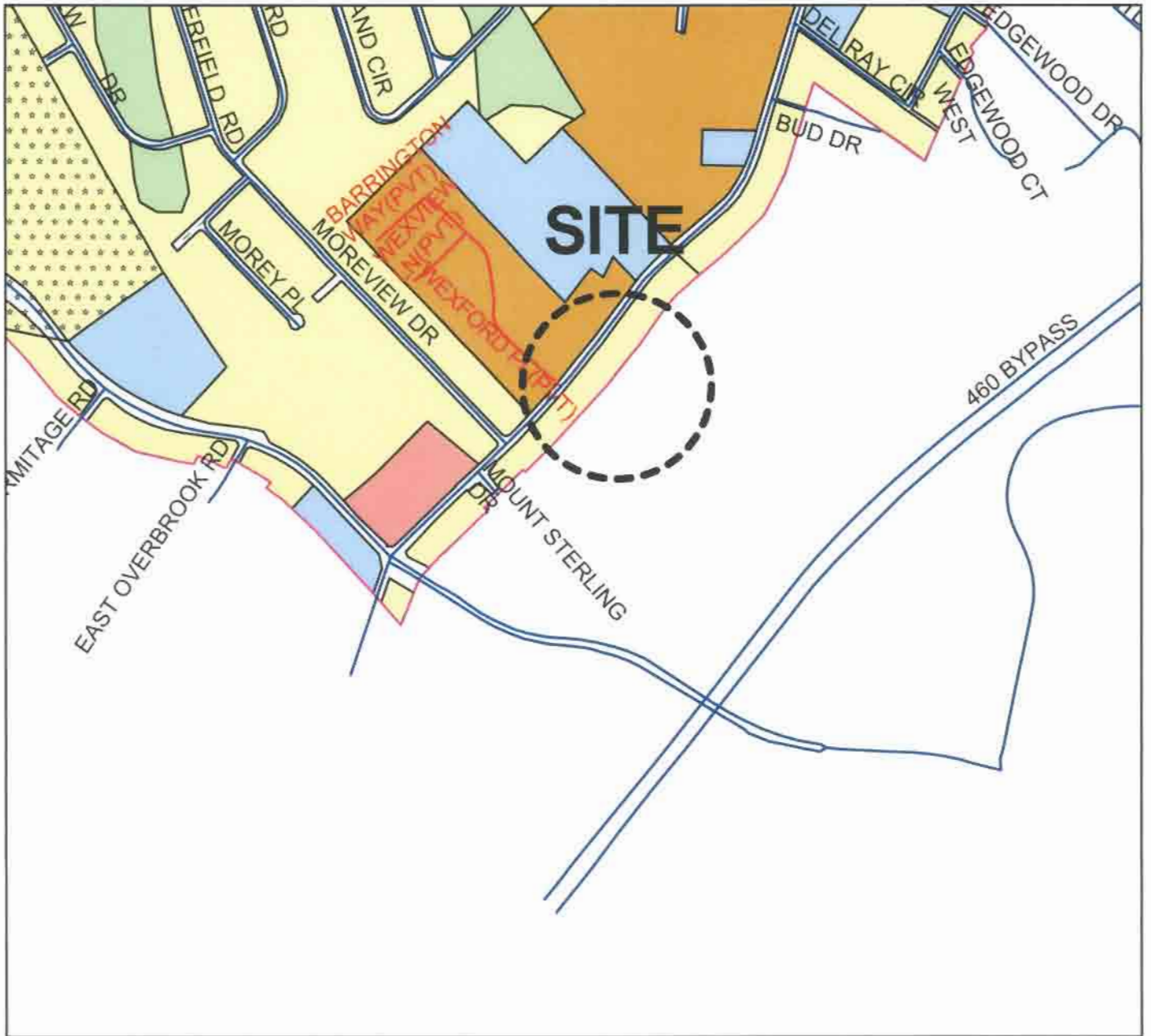
200 ft Radius



GREENVIEW PROPERTIES

759 Leesville Road

PIN	OWNER
26212001	CALVARY CHAPEL OF LYNCHBURG
26606014	CHURCH OF GOD TRS
26202026	GREENVIEW PROPERTIES LLC
26213002	HARRISON MICHAEL G & MARTHA G
26601006	MARTIN RANDY & ANITA
26602001	MCCOY TIMOTHY D
26213001	MCDANIEL CURTIS F
26214001	MULLINS JERRY L & LELIA M
26601007	RAGLAND WILLIAM H & SANDRA M
26601001	RICE JOSEPH F JR & DIMURO PEGGY L
26606011	TRENT L A & MAMIE C & L A JR
26607021	WEXFORD LTD TOWNHOMES HOMEOWNERS ASSOCIATION INC

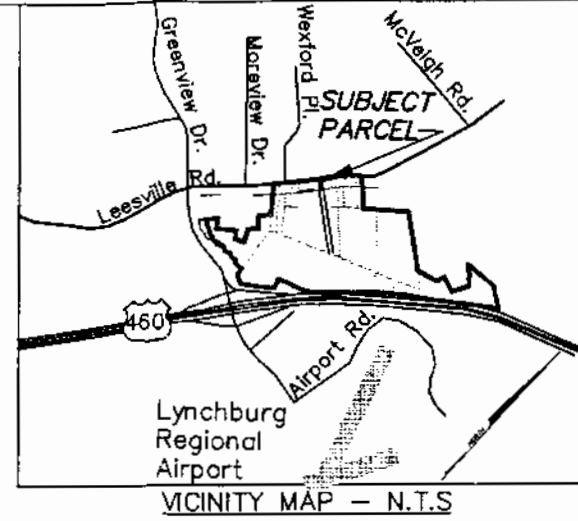


GREENVIEW PROPERTIES **#759 LEESVILLE ROAD** **LAND USE PLAN**



LINE TABLE		
LINE	BEARING	LENGTH
L1	S 53°39'43" E	134.15
L2	S 35°45'22" W	70.00
L3	N 53°39'43" W	123.46

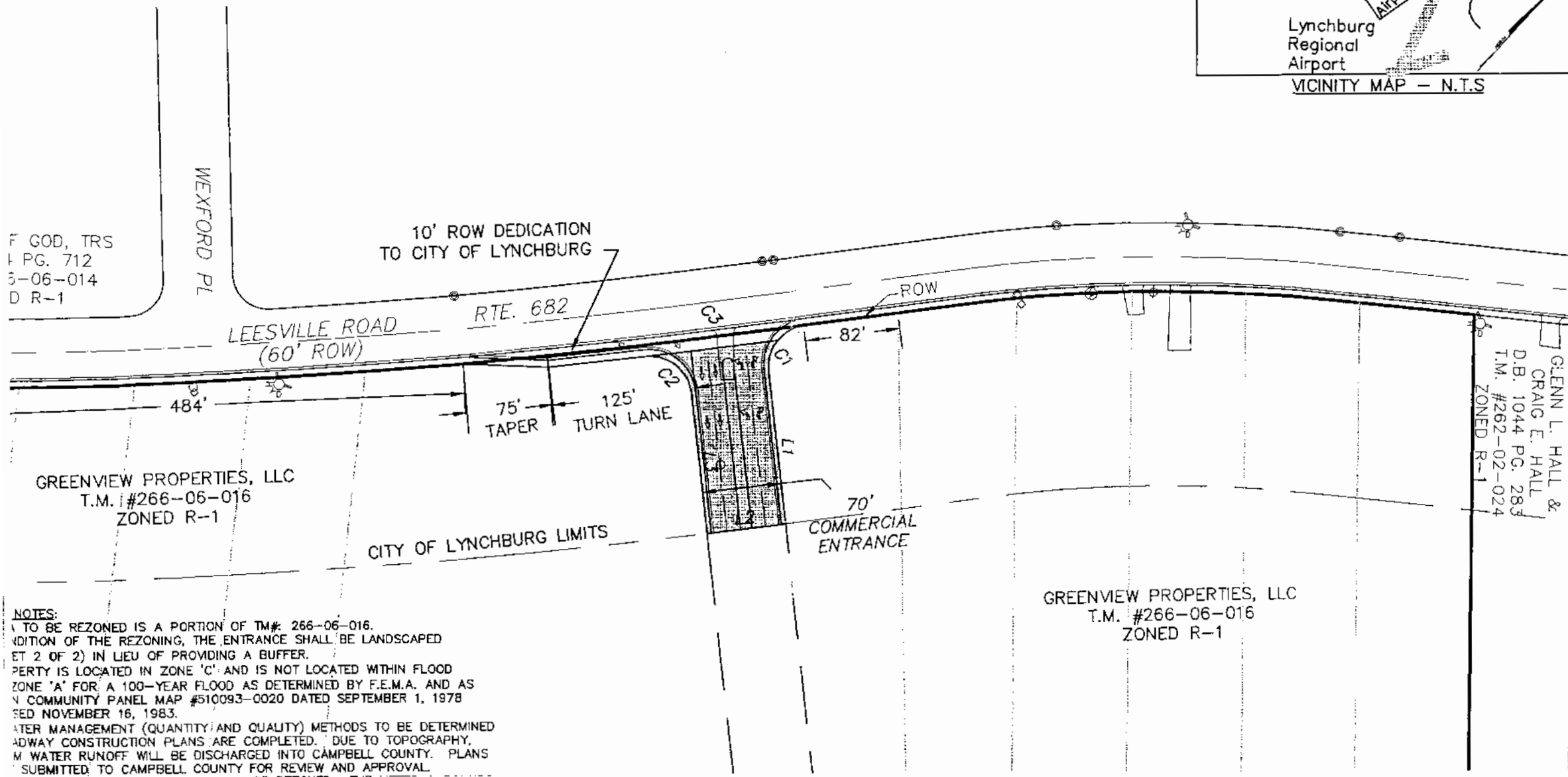
CURVE TABLE					
CURVE	DELTA	LENGTH	RADIUS	CHORD	CHORD BEARING
C1	45°33'17"	29.02	36.50	28.26	S 30°53'04" E
C2	89°53'20"	57.26	36.50	51.57	S 81°23'37" W
C3	1°09'56"	117.38	5769.53	117.37	N 35°51'59" E



ENGINEERING >> SURVEYING >> PLANNING

HURT & PROFFITT
INCORPORATED

2524 LANGHORNE ROAD
LYNCHBURG VA 24501
800.242.4906 TOLL FREE
434.847.7796 MAIN
434.847.0047 FAX



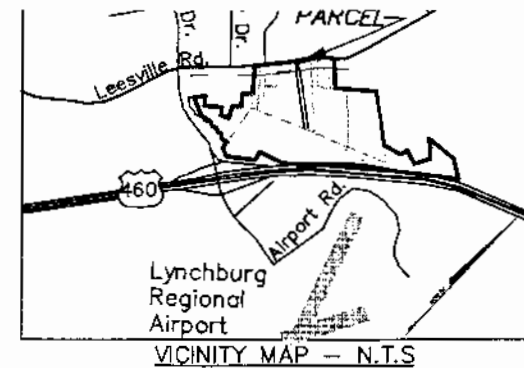
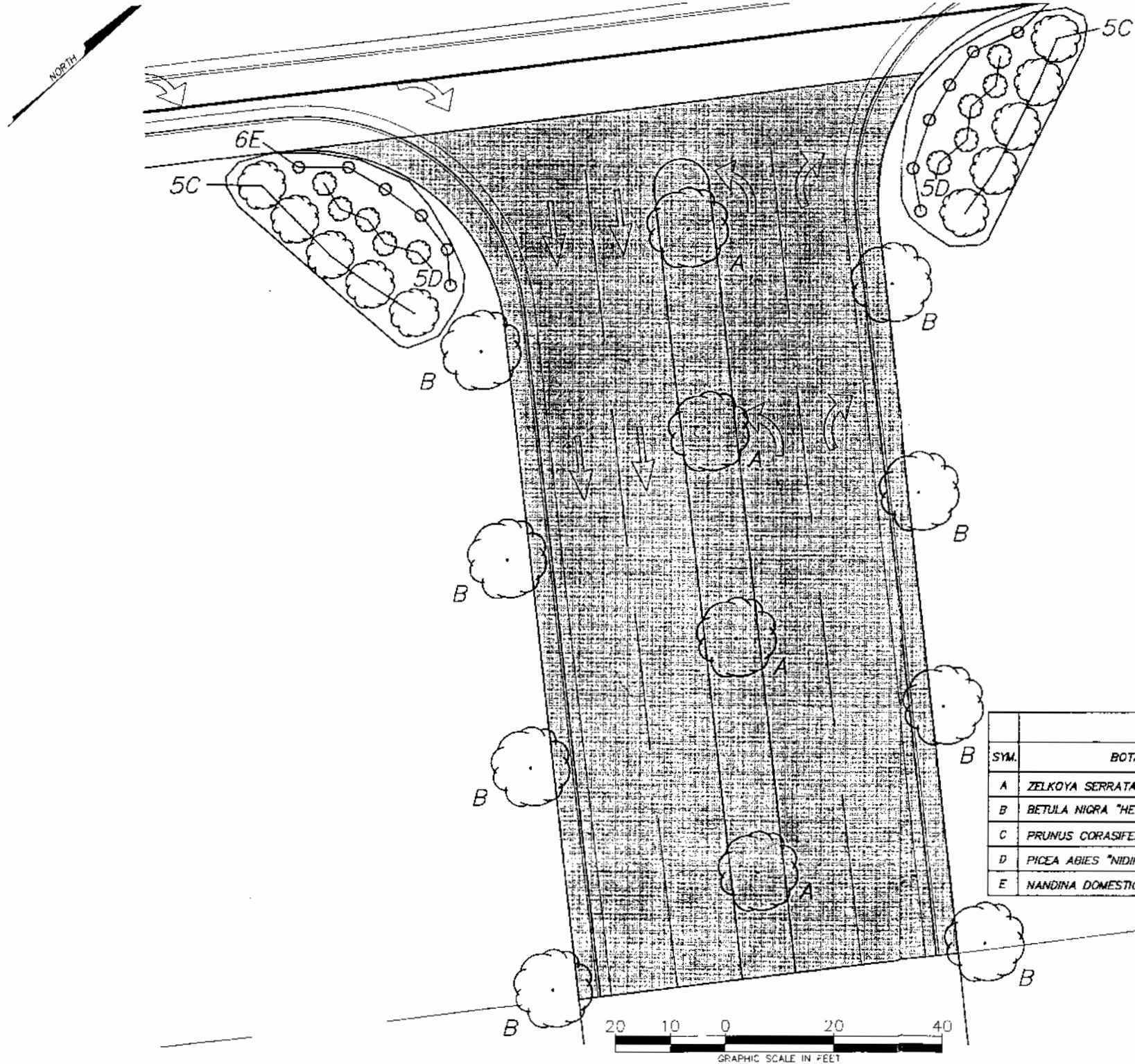
PROPOSED REZONING OF ENTRANCE ROAD PARCEL
FOR
PROPERTY OF GREENVIEW PROPERTIES, LLC
CITY OF LYNCHBURG, VIRGINIA

F GOD, TRS
PG. 712
5-06-014
D R-1

GLENN L. HALL &
CRAIG E. HALL
D.B. 1044 PG. 283
T.M. #262-02-024
ZONED R-1

NOTES:
1) TO BE REZONED IS A PORTION OF TM# 266-06-016.
2) IN ADDITION TO THE REZONING, THE ENTRANCE SHALL BE LANDSCAPED
3) IN LIEU OF PROVIDING A BUFFER.
4) THE PROPERTY IS LOCATED IN ZONE 'C' AND IS NOT LOCATED WITHIN FLOOD
5) ZONE 'A' FOR A 100-YEAR FLOOD AS DETERMINED BY F.E.M.A. AND AS
6) SHOWN ON THE COMMUNITY PANEL MAP #510093-0020 DATED SEPTEMBER 1, 1978
7) REVISION DATED NOVEMBER 16, 1983.
8) WATER MANAGEMENT (QUANTITY AND QUALITY) METHODS TO BE DETERMINED
9) AFTER ADJACENT CONSTRUCTION PLANS ARE COMPLETED. DUE TO TOPOGRAPHY,
10) ALL WATER RUNOFF WILL BE DISCHARGED INTO CAMPBELL COUNTY. PLANS
11) SUBMITTED TO CAMPBELL COUNTY FOR REVIEW AND APPROVAL.

GREENVIEW PROPERTIES, LLC
T.M. #266-06-016
ZONED R-1



HURT & PROFFITT
INCORPORATED
2524 LANGHORNE ROAD
LYNCHBURG VA 24501
PH: 252.4906 TOLL FREE
434.847.7796 MAIN
434.847.0047 FAX

**PROPOSED REZONING OF ENTRANCE ROAD PARCEL
FOR
PROPERTY OF GREENVIEW PROPERTIES, LLC
CITY OF LYNCHBURG, VIRGINIA**

PLANT LIST				
SYM.	BOTANICAL NAME	COMMON NAME	SIZE	QUANTITY
A	ZELKOYA SERRATA "MATCH EX."	JAPANESE ZELKOVE	1 1/2-2 CAL.	4
B	BETULA NIGRA "HERITAGE"	HERITAGE RIVER BIRCH	5-6' HT.	8
C	PRUNUS CORASIFERA "THUNDERCLOUD"	PURPLE LEAF PLUM	6-8' HT.	10
D	PICEA ABIES "NIDIFORMIS"	BIRDS NEST SPRUCE	3 GAL.	10
E	NANDINA DOMESTICA "FIREPOWER"	FIREPOWER NANDINA	3 GAL.	12

PROJECT NO. 20050985
G.L. NO. 264-01-C4.8
FILE NO.
DATE: 02/10/06
DRAWN BY: JWG
CHECKED BY: DBA

COOPERATION AGREEMENT BETWEEN
THE CITY OF LYNCHBURG AND THE COUNTY OF CAMPBELL

This Cooperation Agreement is made this 17th day of October, 2005, by and between the City of Lynchburg (the "City") and the County of Campbell (the "County") pursuant to Va. Code Ann. § 15.2-1300.

RECITALS

R1. Wards Crossing West, LLC, English Development Corporation, and English Building, LLC (collectively the "Developer") have proposed the development of the Wards Crossing West Shopping Center located primarily in Campbell County, but partially located in the City of Lynchburg.

R2. The County approved the rezoning of a portion of the Wards Crossing West site, subject to certain conditions, on November 1, 2004.

R3. The County and the City recognize that the area along Wards Road and the 460 Bypass between Wards Ferry Road and Airport Road (the "Development Area") will develop at some point in the future. The Development Area is comprised of approximately 200 acres.

R4. The foreseeable development of the Development Area will result in substantial traffic effects and service demands for both the County and the City.

R5. Traffic in the Wards Road, Wards Ferry Road, and 460 Bypass area is already near capacity.

R6. The County's Comprehensive Plan designates the Development Area for medium to high density commercial growth.

R7. The Developer requested that the City rezone a tract of approximately 1.6 acres and located at 108 Melinda Drive, Wards Ferry Road, and Wards Road from R-4 Multi-Family Residential District to B-3 Commercial Business District (Conditional) to allow private commercial access to serve Wards Crossing West. The City Council considered this rezoning request in November, 2004 and February, 2005. The Council did not approve the rezoning request.

R8. The Board of Supervisors adopted a Resolution dated February 22, 2005, that requires the construction of roads through the Development Area as a condition for future development

R9. The County and the City recognize that it is in their mutual interests that the development of the Development Area be well designed, consistent with the Comprehensive Plans of both localities, and consistent with the character of existing uses in the area, and that any adverse impact on property owners in the area from future development be mitigated.

R10. Virginia Code Ann. § 15.2-1300 authorizes counties and cities to enter into interlocal Cooperation Agreements for the cooperative exercise of powers.

COOPERATION AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the City and the County agree to provisions set forth below:

1. **Purpose.** The purpose of this Cooperation Agreement is to establish the basis upon which the County and the City can cooperate in planning the development of the Development Area, cooperatively manage the impact of such development, and provide for the

mitigation of the costs associated with providing public services in connection with such future development.

2. **Definitions.**

2.1 **Annual Service Fee.** The term “Annual Service Fee” shall mean the fee paid each year by the County to the City to offset a portion of the cost of providing services related to Wards Crossing West.

2.2 **Development Area.** The term “Development Area” shall mean the area of approximately 200 acres located in the Concord Election District along Wards Road and the 460 Bypass between Wards Ferry Road and Airport Road. The approximate boundaries of the Development Area are shown on the attached Exhibit 1.

2.3 **Development Area Access Road.** The term “Development Area Access Road” shall mean a public road to be designed and constructed at the County’s expense as provided for in Section 3 below.

2.4 **Development Area Master Plan.** The term “Development Area Master Plan” shall mean a Master Plan for infrastructure and land use development in the Development Area as provided for in Section 6 below.

2.5 **Development Area Property Owners.** The term “Development Area Property Owners” shall mean those persons who own property located in the Development Area.

2.6. **Developer.** The term “Developer” shall mean Wards Crossing West, LLC, English Development Corporation and/or English Building, LLC, or any successor entity acting as the Developer or owner of Wards Crossing West.

2.7. Wards Crossing West. The term “Wards Crossing West” shall mean the shopping center development proposed to be constructed in a portion of the Development Area in the County and the City by the Developer.

2.8. Wards Crossing West Entrance Road Parcel. The term “Wards Crossing West Entrance Road Parcel” shall mean the approximately 1.6 acre parcel located in the City at 108 Melinda Drive, Wards Ferry Road and Wards Road for which the Developer proposes to construct and maintain entrance roads serving the Wards Crossing West Shopping Center.

3. **Development Area Access Road.**

3.1 The County shall acquire the necessary rights-of-way and construct the Development Area Access Road to provide public road access from Leesville Road or Airport Road to the Development Area and Wards Crossing West.

3.2 Alignment. The anticipated approximate alignment of the Development Area Access Road is shown on the attached Exhibit 1. The final alignment shall be approved by the County consistent with the terms of this Cooperation Agreement and the Development Area Master Plan.

3.3 Rights-of-Way Acquisition. The County shall obtain binding contractual commitments from the Development Area Property Owners providing for the conveyance of the necessary rights-of-way to the County to allow the construction and maintenance of the Development Area Access Road which shall extend from Wards Ferry Road to an initial terminus at Leesville Road. It is the County’s intent to construct another access point at the remaining Airport Road terminus as future development occurs.

Dec 15, 1

(a) The County shall acquire these binding contractual commitments for the Development Area Access Road not later than ninety (90) days from the execution of this agreement by both parties. Time is of the essence with respect to this provision.

(b) In the event the alignment of the Development Area Access Road crosses land within the boundaries of the City or property owned by the City in the boundaries of the County, the City will consider and act on all necessary land use, zoning, subdivision, and dedication or other approvals necessary to allow the construction and maintenance of the Development Area Access Road.

3.4 Design and Construction. The County shall fund the design and construction of the Development Area Access Road. The County anticipates that the design phase shall be complete within six (6) months of the Developer receiving its rezoning, Conditional Use Permit, and other required permits. The County anticipates that the construction phase shall be complete within eighteen (18) months of the Developer receiving its rezoning, Conditional Use Permit, and other required permits.

3.5 Maintenance. The County shall maintain the Development Area Access Road as a public road or shall arrange to have the road dedicated to the Virginia Department of Transportation to maintain the Development Area Access Road as a public road.

3.6 Wards Crossing West. The County shall not issue a certificate of occupancy for Phase I (as shown on Exhibit 2) prior to the completion of the traffic improvements required under Paragraph 5 hereof. In addition, the County shall not issue a certificate of occupancy for Phase II of Wards Crossing West improvements unless and until the County has acquired rights-of-way required

under this agreement, completed construction of the roadway within the Wards Crossing West section of the Development Area, and rough graded the public road to the third access point on Leesville Road. Regardless of this section, the County has agreed to construct the public road from Ward's Crossing to Leesville Road within eighteen (18) months of the Developer receiving its rezoning, Conditional Use Permit, and other required permits.

- 3.7 Special Service District. County will, as a means of financing the roads and other infrastructure improvements required in this agreement, designate the Development Area a Special Service District pursuant to Chapter 24 of title 15.2 of the Code of Virginia.

4. Annual Service Fee.

4.1 Payment. The County shall pay the Annual Service Fee to the City on or before December 31 of each year. The first Annual Service Fee shall be due on or before December 31, 2006.

(a) The County's obligation to pay the Annual Service Fee shall not be contingent on the County's receipt of any payments from the Developer.

4.2 Amount and Calculation of the Annual Service Fee. The amount of the Annual Service Fee shall be the difference between the County's real estate tax on the land and improvements at Wards Crossing West and what the real estate tax would be on such land and improvements applying the City's real estate tax rate.

Example:

Wards Crossing West assessed value of land:	\$ 2,000,000
Wards Crossing West assessed value of improvements:	\$ 18,000,000

County Real Estate Tax Rate: \$.52 per \$100

~~Calculated County Real Estate Tax for Wards Crossing West: \$ 104,000~~

City Real Estate Tax Rate: \$ 1.11 per \$100

Calculated City Real Estate Tax for Wards Crossing West \$ 222,000

Difference between calculated County Real Estate Tax and
Calculated City Real Estate Tax: \$ 118,000

Amount of Annual Service Fee: \$ 118,000

4.3 Annual Appropriations. The County agrees to appropriate annually the funds necessary to pay the Annual Service Fee.

(a) The obligation of the County to pay the Annual Service Fee shall be subject to and dependent upon appropriations being made from time to time by the Board of Supervisors of the County for such purpose. The County Administrator shall include in the proposed budget for each fiscal year all amounts required to be paid under this Cooperation Agreement during such fiscal year, and the County Administrator shall use his or her best efforts to obtain the annual appropriation throughout the term of this Cooperation Agreement.

(b) The County reasonably believes that it will continue to pay the Annual Service Fee as described herein for the duration of this Cooperation Agreement and that funds sufficient to make all payments required by the County during the term of this Cooperation Agreement can be obtained from County revenue sources and the County intends to make annual appropriations during the term of this Cooperation Agreement sufficient to make such payments. The County hereby declares its appropriations pursuant to this Cooperation Agreement to be necessary and desirable to secure and promote the general welfare of the inhabitants of the County, the commerce and industry of the County, and the resources and advantages of the County.

(c) Any other provision to the contrary notwithstanding, this Cooperation Agreement and the obligations herein shall not constitute a debt of the County within the meaning of any limitation on indebtedness of the County under any constitutional or statutory limitation and nothing in this Cooperation Agreement shall constitute a pledge of the full faith and credit of the County under any provision of state law or the constitution of Virginia.

5. **Traffic Management Improvements.**

5.1 The County and the City anticipate that it will be necessary to implement a traffic management plan in the vicinity of Ward Crossing West to minimize through traffic and to enhance traffic safety in the Vista Acres neighborhood.

(a) On or about July 1, 2006 the County shall pay the City \$100,000 to offset a portion of the cost of constructing traffic management improvements in the City in the vicinity of Wards Crossing West. The County's obligation to make this payment shall not be contingent on the County's receipt of any payments from the Developer. Furthermore, this shall not relieve the Developer of his obligations to install required turn lanes, traffic signals, signage and other necessary improvements in the immediate vicinity of the Wards Ferry Road entrances into Wards Crossing West and on Wards Road at its intersection with Wards Ferry Road, which are those shown on the site plan submitted to the City for rezoning and Conditional Use Permit approval.

6. **Development Area Master Plan.**

6.1 The County shall develop the Development Area Master Plan to guide the future development of the Development Area. The Development Area Master Plan shall address road improvements and other infrastructure improvements in the Development Area. The County

shall provide the City with an opportunity to comment on the proposed Development Area Master Plan prior to its final adoption.

6.2 Comprehensive Plan Amendment. The County shall amend its Comprehensive Plan to incorporate the Development Area Master Plan as part of the Comprehensive Plan.

6.3 Consistency. The County shall require that all future development in the Development Area shall conform to the Development Area Master Plan. The County shall not grant development approvals for future development in the Development Area that do not substantially conform to the provisions of the Development Area Master Plan.

6.4 Timeline. Within six (6) months of the Developer receiving its rezoning, Conditional Use Permit, and other required permit approvals the County shall commence work on the Development Area Master Plan, which shall be completed no later than twelve (12) months following the Developer receiving its rezoning, Conditional Use Permit, and other required permits. The City of Lynchburg will be involved during the development of the Master Plan and further shall have 90 days following its completion to comment on the proposed Master Plan prior to submission to the Campbell County Planning Commission and Campbell County Board of Supervisors for inclusion in the County's Comprehensive Plan.

7. **Wards Crossing West Entrance Road Parcel Rezoning.**

7.1 The County has been advised that the Developer will submit rezoning and Conditional Use Permit requests to the City for the Wards Crossing West Entrance Road Parcel that allows the Developer to build a structure and align an entrance road with Logan's Roadhouse within the 100 year flood plain, as well as a second entrance that aligns with the

current Target entrance. The City shall consider any such request for rezoning and Conditional Use Permit in a reasonable and timely manner consistent with the provisions of the City of Lynchburg Zoning Ordinance and this cooperation Agreement. The rezoning request shall include the proffers and site plan attached as Exhibit 2. The City agrees to expedite scheduling of the required public hearings for the Planning Commission and City Council, with City Council taking final action on or before December 15, 2005.

8. **Termination.**

8.1 Any party may terminate this Cooperation Agreement in the event that the other party is in breach, in any material respect, provided that the party seeking to terminate this Cooperation Agreement has given notice in writing to the other party of the alleged breach and such alleged breach has not been rectified to the reasonable satisfaction of the party complaining, within sixty days of the giving of such notice, then this Cooperation Agreement will be terminated ninety days after the giving of such notice.

8.2 The City shall have the unilateral option to terminate this Cooperation Agreement if the County fails to acquire the binding contractual commitments for rights-of-way acquisition within ninety (90) days of the Developer receiving its rezoning, Conditional Use Permit, and other required permit approvals.

8.3 Either party may terminate this Cooperation Agreement in the event the Developer abandons the Wards Crossing West project.

8.4 The County shall have the unilateral option to terminate this Cooperation Agreement if the Developer fails to obtain from the City the approvals reasonably necessary to allow the Wards Crossing West Development to proceed by December 15, 2005.

9. **Site Plan Review/Wards Crossing West.**

9.1 The County shall take the lead role in the site plan review, approval and enforcement process for Wards Crossing West. The County shall ensure that the City has a reasonable opportunity to participate in the site plan review process and to comment on proposed site plan documents.

(a) Any development of land within the City's boundaries associated with Wards Crossing West shall be subject to site plan review, approval, and enforcement by the City under applicable City ordinances.

10. **Erosion and Sediment Control/Storm Water Managements.**

10.1 Whenever current County regulatory requirements for erosion and sediment control or stormwater management conflict with City regulatory requirements, and the activity affects areas of the City, the County shall incorporate the City's regulatory requirements into the site development process and shall, to the extent practicable, apply the City's regulatory requirements to the entire site to allow for more consistent development.

11. **Duration.** This Cooperation Agreement shall remain in effect for a period of forty (40) years from the date of execution.

12. **Disputes.** In the event the parties are unable to informally resolve any dispute ~~that may arise from or be related to this Cooperation Agreement, the parties agree that no legal~~ action shall be instituted in any court until after the parties have engaged in formal mediation conducted by a trained mediator. The parties further agree that either party may make a written demand for formal mediation with respect to any dispute and that both parties shall honor such written demand.

13. **Assignment.** No party shall, without the prior consent of the other, which consent shall not be unreasonably withheld, assign, or otherwise transfer its rights and obligations under this Cooperation Agreement to any third party.

14. **Merger, Amendment and Waiver.** This Cooperation Agreement contains the entire understanding between the parties with respect to the Development Area and Wards Crossing West project. No amendment or waiver of any of the terms, provisions, or conditions of this Cooperation Agreement shall be effective unless in writing and executed by the parties. No delay or failure by any part to enforce any right or obligation hereunder shall be deemed to be a waiver of such right or obligation nor shall any waiver of any specific breach of this Cooperation Agreement be deemed to be a waiver of any other or additional breach, similar or dissimilar.

15. **Governing Law.** This Cooperation Agreement shall be governed by and shall be construed in accordance with the laws of the Commonwealth of Virginia. The parties hereby consent to the jurisdiction of the Circuit Courts for the County of Campbell and the City of Lynchburg in any proceeding brought under the provisions of this Cooperation Agreement.

16. **Counterparts.** This Cooperation Agreement may be executed by the parties in ~~any number of counterparts, each of which shall be deemed to be an original document, but all of~~ which, taken together, shall constitute one and the same Cooperation Agreement.

17. **Authority.** Each of the undersigned individuals executing this Cooperation Agreement in a representative capacity hereby represents and warrants that he or she is authorized to enter into this Cooperation Agreement on behalf of the party which he or she purports to represent, the appropriate resolutions have been passed and obtained, and that this Cooperation Agreement shall be the legal, valid and binding obligation of such party.

18. **Execution of Documents.** Each party agrees to execute and deliver such additional or other documents and instruments and to take such further actions as may be reasonably necessary to carry out fully the intent and purpose of this Cooperation Agreement.

19. **Severability.** If any provision of this Cooperation Agreement or the application thereof to any party or circumstances shall, to any extent, be adjudged invalid or unenforceable in any jurisdiction, then: (a) such provision shall not be affected in any other jurisdiction; (b) the application of the other provisions of this Cooperation Agreement to said party or circumstances shall not be affected; and (c) the application of this Cooperation Agreement to any other party or circumstances shall not be affected thereby.

20. **Notice.** Except as otherwise provided herein, any notice, requests, consents, approval, demand or other communications required or permitted hereunder shall be in writing and shall be given (a) when received, if mailed, registered or certified mail, return receipt requested, postage prepaid, or (b) when delivered in person against a written receipt therefor, addressed to the parties as follows:

Notice to: Mr. R. David Laurell
County Administrator
Campbell County
P. O. Box 100
Rustburg, Virginia 24588

David Shreve, Esq.
County Attorney
Campbell County
P. O. Box 547
Altavista, Virginia 24517

Notice to: Mr. L. Kimball Payne
City Manager
City of Lynchburg
900 Church Street
Lynchburg, Virginia 24504

Walter C. Erwin, III, Esq.
City Attorney
City of Lynchburg
900 Church Street
Lynchburg, Virginia 24504

IN WITNESS WHEREOF, the parties have caused this Cooperation Agreement to be
executed by their duly authorized officers as of the date above first written.

CITY OF LYNCHBURG, VIRGINIA

By: Kimball P. [Signature]
Its: City Manager



COUNTY OF CAMPBELL

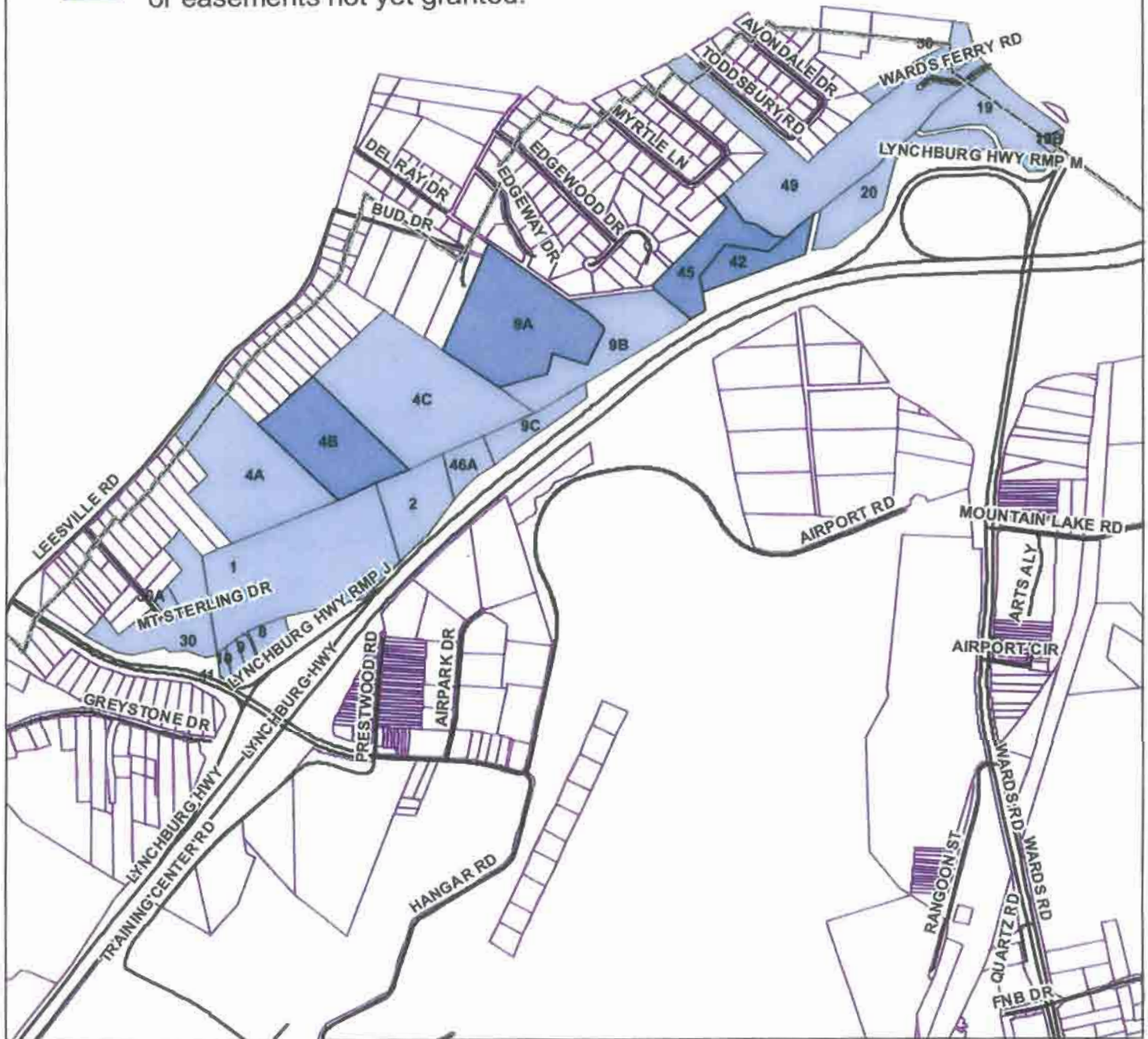
By: [Signature]
Its: County Commissioner

EXHIBIT 1

Map showing Development Area Boundaries

EXHIBIT 1 DEVELOPMENT AREA

 The boundaries are approximate and
 may be subject to acquisition of property
 or easements not yet granted.



0 462.5 925 1,850 2,775 3,700 Feet

1 inch equals 1,000 feet





Hurt & Proffitt, Inc.

Engineering • Surveying • Environmental
Materials Testing • Geotechnical
Site Planning

2524 Langhorne Road • Lynchburg, VA 24501
(434) 847-7796 • FAX (434) 847-0047

REZONING NARRATIVE (REVISED)

Greenview Properties, LLC
Commercial Entrance at 759 Leesville Road
Lynchburg, Virginia

CITY PROJECT #REZ0602-0001
HURT & PROFFITT PROJECT #20050985

PROJECT DESCRIPTION

The Rezoning Plan for the Leesville Road Commercial Entrance shows only the portion of a proposed roadway that will be constructed on property located in the City of Lynchburg. The total length of roadway that will be in the City of Lynchburg is approximately 175 feet. The majority of the access road will be constructed in Campbell County.

The Leesville Road Commercial Entrance will be constructed on property that is currently zoned R-1. The rezoning application that was submitted requests that the property be rezoned to B-3.

There are no plans at this time for a sign to be located at the entrance.

A 125' right turn lane with a 75' taper is proposed to facilitate eastbound traffic turning right into the development. A 10' strip of land will be dedicated to the City of Lynchburg for this purpose.

STORM WATER MANAGEMENT (QUALITY AND QUANTITY)

Roadway construction plans, which will include the entrance to Leesville Road, have not been completed. When they are completed, they will provide detailed information on how storm water will be collected in the new roadway and discharged to an adequate receiving channel. Due to the topography of the site, all storm water runoff from the entrance will be discharged into Campbell County. Therefore, erosion and sediment control plans will be submitted to Campbell County for their review and approval.

The total impervious surface of the portion of the entrance that lies in the City limits is approximately 13,000 square feet. Storm water quality will be addressed using the proposed landscaping as a best management practice. However, because plans have not been completed for the roadway, storm water management plans have not yet been developed. It is assumed that storm water quality and quantity will ultimately be managed for this project (inclusive of the roadway, proposed shopping center, commercial and other development) on a regional basis.

The portion of the project that is in the City of Lynchburg is located in zone 'C' and is not located within flood hazard zone 'A' for a 100-year flood as determined by F.E.M.A. and as shown on Community Panel Map #510093-0020 dated November 16, 1983.

ADEQUATE CHANNEL

The ultimate receiving channel for the runoff is the either Rock Castle Creek or a tributary of Rock Castle Creek. Both of these waters are considered adequate receiving channels.

LANDSCAPING/OTHER

Clearing and grading limits are shown on the attached CUP plan. In lieu of an evergreen buffer, as required by City Code, between the rezoned B-3 property and the adjacent R-1 property, the developer will landscape the entrance. Landscape plantings will be as provided on the attached Rezoning plan. Street trees will be located along both sides of the roadway and in the median. Furthermore, large landscaped areas will flank the entrance as shown on the attached plan.

No exterior lighting is proposed at this time.